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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/593,149 | 06/14/2000 | Michael A. Vaudrey | 10551/88 | 8117 |
| 7590 | 06/09/2004 | | | EXAMINER FAULK, DEVONA E |
| Kenyon & Kenyon 1500 K Street NW Suite 700 Washington, DC 20005 | | | ART UNIT 2644 | PAPER NUMBER |

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/593,149 | VAUDREY ET AL. | |
| | Examiner | Art Unit | |
| | Devona E. Faulk | 2644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 March 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-13 and 15-18 is/are rejected.
 7) Claim(s) 14 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.
2. The indicated allowability of claim 13 is withdrawn in view of the newly discovered reference(s) to Tubman et al. (U.S. Patent 5,569,038). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1,6,7,15-18** are rejected under 35 U.S.C. 102(b) as being anticipated by Tubman et al. (U.S. Patent 5,569,038).

Regarding **claim 1**, Tubman discloses an AcoustiPrompt player system (Figures 8-10) including a 4-channel audio player (54), a mixer (56) (Figures 8 and 10) that permits four respective signals (left and right stereo, vocal and an acoustic prompt signal) received from audio player (54) to be added together in a controlled and specified manner, which reads on “a decoder for decoding a signal comprised of at least two separate tracks, wherein the at least two separate tracks”; a vocal track (75), which reads on “a first track comprised of a preferred audio signal”; a left and right stereo input (73 and 74), either of which reads on “a second track comprised of a

remaining audio signal”; a corresponding fader or adjustable volume control (79)(Figure 10) (column 16, lines 33-60)for the vocal track, which reads on a first end-user adjustable amplifier coupled to said preferred audio signal and amplifying said preferred audio signal”; a corresponding fader or adjustable volume control (78)(Figure 10) for the left and right stereo input, which reads on a second end-user adjustable amplifier coupled to said preferred audio signal and amplifying said remaining audio signal”; a karaoke volume control (81) (Figure 10) coupled to a pre-amplifier (88) and microphone (60), which reads on “a summing amplifier coupled to outputs of said first and second end-user adjustable amplifiers and outputting a total audio signal, said total signal coupled to an individual listening device”.

Regarding **claim 6**, Tubman teaches of a master volume control (92) (Figure 8) (column 15, lines 45-51) that reads on the “third end-user amplifier”. All elements of claim 6 are comprehended by claim 1.

All elements of **claims 15 and 16** are comprehended by claim 1.

Regarding **claim 7**, Tubman discloses an AcoustiPrompt player system (Figures 8-10) including a 4-channel audio player (54),a mixer (56) (Figures 8 and 10) that permits four respective signals (left and right stereo, vocal and an acoustic prompt signal) received from audio player (54) to be added together in a controlled and specified manner , which reads on “a receiver for receiving at least two separate tracks”; a vocal track (75), which reads on “a first track comprised of a preferred audio signal”; a left and right stereo input (73 and 74), either of which reads on “a second track comprised of a remaining audio signal”; a corresponding fader or adjustable volume control (79)(Figure 10) (column 16, lines 33-60)for the vocal track, which reads on a first end-user adjustable amplifier coupled to said preferred audio signal and

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amplifying said preferred audio signal”; a corresponding fader or adjustable volume control (78)(Figure 10) for the left and right stereo input, which reads on a second end-user adjustable amplifier coupled to said preferred audio signal and amplifying said remaining audio signal”; a karaoke volume control (81) (Figure 10) coupled to a pre-amplifier (88) and microphone (60), which reads on “a summing amplifier coupled to outputs of said first and second end-user adjustable amplifiers and outputting a total audio signal, said total signal coupled to an individual listening device”.

Regarding **claim 12**, Tubman teaches of a master volume control (92) (Figure 8) (column 15, lines 45-51) that reads on the “third end-user amplifier”. All elements of claim 12 are comprehended by claim 7.

All elements of **claims 17 and 18** are comprehended by claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2-5 ,8-11 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tubman et al. (U.S. Patent 5,569,038).

Claims 2-5 each claim the integrated individual listening device and decoder according to claim 1 where said listening device is respectively a hearing aid, a head set, an assistive listening device, and a cochlear implant. As stated above apropos of claim 1 Tubman meets all

elements of claim 1. Therefore Tubman meets all elements of claims 2-5 with the exception of the listening device being a hearing aid, a head set, an assistive listening device and a cochlear implant. Tubman further teaches of the mixer connected to a personal listening device (98) (Figure 8)(column 19, lines17-24). Although the Figure indicates a headset, a personal listening device includes hearing aids, cochlear implants, and hearing assistive devices. Thus would have been obvious to one of ordinary skill in the art at the time of the invention use Tubman's apparatus by having it capable of outputting to Franklin's various types of hearing assistive devices for the benefit of having an apparatus that permitted the user to sing along with better clarity and to provide the listener with much better sound quality.

Claims 8-11 each claim the voice-to-remaining audio (VRA) receiving device of claim 7 wherein said listening device is respectively a hearing aid, a head set, an assistive listening device, and a cochlear implant. As stated above apropos of claim 7, Tubman meets all elements of that claim. Therefore Tubman meets all elements of claims 8-11 with the exception of the listening device being a hearing aid, a head set, an assistive listening device and a cochlear implant. Tubman further teaches of the mixer connected to a personal listening device (98) (Figure 8)(column 19, lines17-24). Although the Figure indicates a headset, a personal listening device includes hearing aids, cochlear implants, and hearing assistive devices. Thus would have been obvious to one of ordinary skill in the art at the time of the invention use Tubman's apparatus by having it capable of outputting to Franklin's various types of hearing assistive devices for the benefit of having an apparatus that permitted the user to sing along with better clarity and to provide the listener with much better sound quality.

Regarding **claim 13**, Tubman discloses an AcoustiPrompt player system (Figures 8-10) including a 4-channel audio player (54), a mixer (56) (Figures 8 and 10) that permits four respective signals (left and right stereo, vocal and an acoustic prompt signal) received from audio player (54) to be added together in a controlled and specified manner, which reads on “a decoder for decoding a bitstream and producing as its output, a digital preferred audio signal and a digital remaining audio signal” because he teaches CDs can be used as the media for four-channel playback (column 16, lines 20-30) including CD-Video CD-Rom and CD-Interactive and that four channel playback can be accomplished in many ways, one of which is by lowering the number of bits assigned for each audio sample (column 15, lines 3-17). Tubman further teaches in Figure 1 of D/A converters and amplifiers connected to the decoder of Figure 1, the FIFO memories. The amplifier reads on transmitter. Although the teaches of each signal have a corresponding D/A converter and a separate amplifier it is once the signals are added as seen in Figure 10 that one D/A converter can be used in order to convert the data so that it can be outputted. Thus it would have been obvious to one of ordinary skill in the art to have a D/A converter coupled to the mixer as claimed for the benefit of converting the data to analog so that it can be outputted to the speakers.

Claim Objections

7. **Claim 14** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 703-305-4359. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DF

MINSUN CHHARVEY
PRIMARY EXAMINER